



CITY OF MORGAN HILL

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

CITY COUNCIL AGENDA

REGULAR MEETING

WEDNESDAY, FEBRUARY 18, 1998

Morgan Hill Civic Center

Mayor

Dennis Kennedy

Council Chambers
17555 Peak Avenue
Morgan Hill, California 95037

Mayor Pro Tempore
Council member
Council member
Council member

Bev E. Freeman
Hedy L. Chang
Cynthia J. Cook
J. Robert Foster

7:00 P.M.

CALL TO ORDER
(Mayor Kennedy)

ROLL CALL ATTENDANCE
(City Clerk Torrez)

DECLARATION OF POSTING OF AGENDA
Per Government Code 54954.2
(City Clerk Torrez)

SILENT INVOCATION

PUBLIC SERVICE ANNOUNCEMENT
Eric Hilding

PLEDGE OF ALLEGIANCE

PROCLAMATIONS
Santa Clara Valley Science and Engineering Fair Association
Science Fair Week

CITY COUNCIL REPORT
Council Member Cook
Water Issues

CITY MANAGER'S REPORT
Status of Committee Recruitments
Traffic at Main and Condit

CLOSED SESSION ANNOUNCEMENTS/CITY ATTORNEY'S REPORT

PUBLIC COMMENTS

Mayor Kennedy

The Morgan Hill City Council welcomes comments from all individuals on any agenda item being considered by the City Council. Please complete a Speaker Card and present it to the City Clerk. This will assist the Council Members in hearing your comments at the appropriate time. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council are limited to Three Minutes. We appreciate your cooperation.

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS EVENINGS AGENDA.

CONSENT CALENDAR: The Consent Calendar, Agenda Items #1 through #14 may be acted upon with one motion, a second and the vote.

1. **A RESOLUTION CONTINUING LOCAL EMERGENCY**
Recommended Action: Approve resolution.
2. **APPROVAL OF AGREEMENT WITH MORGAN HILL UNIFIED SCHOOL DISTRICT TO PROVIDE A SCHOOL RESOURCE OFFICER**
Recommended Action: 1) Approve the agreement for the City, through the Police Department, to provide a School Resource Officer for FY 97/98 to the Morgan Hill Unified School District, in return of a \$50,000 payment from the District and 2) Authorize the City Manager to execute the agreement on behalf of the City.
3. **ADDITIONAL APPROPRIATION OF \$40,000 IN FY 97/98 FOR THE CORPORATION YARD FUEL LEAK CLEAN UP ACTIVITIES**
Recommended Action: Appropriate an additional \$40,000 in the FY 97/98 budget to increase funding for the fuel tank repair and clean up activity as outlined below.
4. **RESOLUTION IN ACCORDANCE WITH SB45 FOR DUNNE/101 OVERCROSSING EXPANSION PROJECT**
Recommended Action: Adopt Resolution in accordance with SB45 for proposed state funding of SR101/Dunne Avenue Over Crossing Expansion Project.
5. **ACCEPTANCE OF DUNNE, CONDIT AND BURNETT WELLS PROJECT**
Recommended Action: 1) Accept as complete the construction of Dunne, Condit and Burnett Wells project in the final amount of \$197,897 and 2) Direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.
6. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH CUSTOM ONE, INC (APN 726-36-029,030)**
Recommended Action: Approve the attached Subdivision Improvement Agreement and authorize the City Manager to sign the agreement on behalf of the City with Custom One, Inc. (APN 726-36-029, 030).
7. **JANUARY FINANCE AND INVESTMENT REPORT**
Recommended Action: Accept and File Report.
8. **CONSULTANT AGREEMENT WITH CARL MILEFF & ASSOCIATES**
Recommended Action: Approve a new fiscal year contract with Carl Mileff & Associates for the amount of \$36,500.
9. **PURCHASE OF SMART PERMITTING SOFTWARE**
Recommended Action: Approve the purchase of Smart Permitting Software.

10. **APPROVAL OF LOAN AGREEMENT FOR EXTENSION OF BUTTERFIELD BOULEVARD FROM DUNNE TO SAN PEDRO**

Recommended Action: Approve the attached loan agreement with the RDA to fund the extension of Butterfield Boulevard from Dunne to San Pedro.

11. **AWARD PROFESSIONAL SERVICES CONTRACT FOR DESIGN OF BUTTERFIELD BOULEVARD EXTENSION FROM DUNNE TO SAN PEDRO**

Recommended Action: Authorize the City Manager to execute the attached agreement with MH Engineering for the design of Butterfield Boulevard from Dunne Avenue to San Pedro Avenue in the amount of \$52,500.

12. **APPROVAL OF SPECIAL MEETING MINUTES OF JANUARY 28, 1998**

13. **APPROVAL OF REGULAR MEETING MINUTES OF FEBRUARY 4, 1998**

14. **APPROVAL OF SPECIAL MEETING MINUTES OF FEBRUARY 10, 1998**

LEGALLY NOTICED PUBLIC HEARINGS:

15. **APPLICATIONS: ZONING AMENDMENT 97-19; DEVELOPMENT AGREEMENT 97-10: MEDICAL CENTER-ROSEHAVEN. (APN 817-10-031)**

Recommended Action: Request staff presentation.

The Mayor will open the Public Hearing.

Please limit your remarks to 3 minutes. The Mayor will close the Public Hearing.

Council discussion.

Action- Motion to waive the reading in full of the ordinance approving the residential planned development;
Motion to introduce ordinance by title only.

Action- Motion to waive the reading in full of the ordinance approving the development agreement;
Motion to introduce ordinance by title only.

16. **SUBDIVISION APPLICATION SD-97-18: E. MAIN STREET- MAIN STREET DEVELOPERS/PAN CAL**

Recommended Action: Request staff presentation.

The Mayor will open the Public Hearing.

Please limit your remarks to 3 minutes. The Mayor will close the Public Hearing.

Council discussion.

Action - Motion to adopt resolution of approval for tentative map.

OTHER BUSINESS:

17. **COMPUTER SERVICES CONTRACT**

Recommended Action: Adopt contract with UltraServ Inc. for computer services.

18. **GENERAL PLAN TASK FORCE AND CONSULTANT SELECTION**

Recommended Action: 1) a. **Approve** the composition of the General Plan Task Force consisting of 2 City Council Members, 2 members of the Planning Commission, 1 representative from the Chamber of Commerce and 14 Morgan Hill residents; b) **Authorize** the staff to solicit applications from residents to serve on the General Plan Task Force, c) **Authorize** the Mayor, subject to approval by the City Council, to appoint 14 residents to serve on the General Plan Task Force; to invite the Chamber of Commerce to select a member to serve on the Task Force and to **authorize** the Planning Commission to select two members to serve on the General Plan Task Force and 2) **Adopt** a minute action designating one Council Member to serve on a committee to select the consultant for the General Plan Update.

19. **REPEAL OF "PHASE-IN" OF TRAFFIC IMPACT FEES FOR COMMERCIAL AND INDUSTRIAL DEVELOPMENT**

Recommended Action: **Adopt** the attached Resolution which will increase our commercial and industrial traffic impact fees effective 60 days from the adoption of the resolution.

20. **TRAFFIC IMPACT MITIGATION FEE (TIMF) ANNUAL SUMMARY REPORT**

Recommended Action: **No action necessary**, informational item only.

21. **MORGAN HILL RANCH ASSESSMENT DISTRICT**

Recommended Action: **Authorize** the City Manager to proceed with the evaluation of the proposed new assessment district.

22. **CITY ATTORNEY RECRUITMENT PROCESS**

Recommended Action: 1) **Continue** this item to your meeting of March 4th when the full City Council can be present to participate, or 2) **Provide** direction to staff as to how the Council would like to proceed with this recruitment process.

23. **DISCUSS SCHEDULE AND FORMAT FOR DEBATE ON PROS AND CONS OF RDA**

Recommended Action: **Council discretion**, however, staff is currently proceeding with coordinating the facilities for this debate with a time line of April, 1998.

24. **REQUEST FOR BUILDING DIVISION ADDITIONAL STAFFING**

Recommended Action: 1) **Authorize** staff to create one permanent full-time Building Inspector position, one full-time Permit Technical position (to replace the Plan Checker position), convert the half-time Office Assistant I position to full-time, 2) **Appropriate** \$52,000 from the Community Development Fund balance to pay for salaries and benefits through June 30, 1998 for the requested positions, and 3) **Appropriate** \$20,000 from the Community Development Fund balance for an inspection vehicle for the new Building Inspector.

25. **SCHEDULE DATE FOR JOINT MEETING WITH THE MORGAN HILL UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION**

Recommended Action: **Select** March 9, 1998 or March 23, 1998 to meet in joint session with the MHUSD Board of Education.

26. **AMICUS REQUEST -- DEL MONTE DUNES V. CITY OF MONTEREY**

Recommended Action: **Authorize** the City Attorney to join in the *amicus* brief in support of the City of Monterey's petition to the U.S. Supreme Court on the issue of whether a property owner is entitled to a jury trial to determine whether a "taking" of property has occurred.

27. **REQUEST FOR CLOSED SESSION TO DISCUSS ANNUAL PERFORMANCE REVIEW AND TERMS OF NEGOTIATION FOR CITY MANAGER**

Recommended Action: **Provide** appropriate direction.

ROLL CALL VOTE: The Roll Call Vote, Agenda may be acted upon with one motion, a second and the roll call vote. The titles having previously been read, no second reading is required. (Government Code Section 36934)

28. **SECOND READING AND ADOPTION OF ORDINANCE NO. 1379, NEW SERIES** -- An Ordinance of the City Council of the City of Morgan Hill adding Chapter 5.28 of the Municipal Code regarding amusement and entertainment establishments.

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

This Is an Opportunity for Members of the City Council to Request Items for Future Agendas.

Note: in Accordance with Government Code Section 54954.2(a), There Shall Be No Discussion, Debate And/or Action Taken on Any Request Other than Providing Direction to Staff to Place the Matter of Business on a Future Agenda.

CLOSED SESSION:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code Section 54956.8
Property: APN #728-16-043, Northeast Corner of Dunne & Murphy, 2.2 acres
Negotiating Parties: Property Owners: John Agresta; John Falcocchia; Lou Falcocchia; Commonwealth Land & Title Co. City of Morgan Hill: Jim Ashcraft; Richard Hoffman; Gale Connor
Under Negotiation: Price and Terms of Payment

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Legal Authority: Government Code Section 54956.9(b)(1)
Title of Potential Litigation: Morgan Hill Unified School District, City of Morgan Hill, Morgan Hill Corporation Yard Commission v. Minter & Fahey Construction Company, Inc.
Potential Court: Santa Clara County Superior Court
Potential Parties: Morgan Hill Unified School District; City of Morgan Hill, Morgan Hill Corporation Yard Commission; Minter & Fahey Construction Company, Inc.
Potential Lawsuit Subject: Construction defect related to Corporation Yard gasoline leak
Closed Session Topic: Authorization to file lawsuit

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Legal Authority: Government Code Section 54957
Title of Employee: City Manager

CLOSED SESSIONS ANNOUNCEMENT:

ADJOURNMENT:

FUTURE COUNCIL AGENDA ITEMS:

1. Mid-year Budget Review
2. Resolution Adopting Live Entertainment Permit Fee
3. Report on City Hall Landscaping Project
4. Feasibility Study for Community Park
5. Policy Regarding Industrial Wastewater Treatment

OPEN PUBLIC COMMENT PERIOD (3 MINUTES)

At **7:00 p.m.** following the opening of Council business, the public may present comments on items **NOT** appearing on the agenda that are within the Council's jurisdiction. Should your comments require Council action, your request will be placed on the next appropriate agenda. No Council discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

SPEAKER CARDS

In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council. However, it is very helpful to the Council if you would fill out the speaker card that is available on the counter in the Council Chambers. Please fill out a card and return it to the City Clerk. As your name is called by the Mayor, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. Please limit your remarks to 3 minutes.

NOTICE

AMERICANS WITH DISABILITY ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City.

If assistance is needed regarding any item appearing on the City Council agenda, please contact the Office of the City Clerk at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Agenda Item #15 in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.